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ABSTRACT

Legislative and political issues are examined in this study of the forces governing the structure of control shared by the individual institutions of the California community college system (CCC) and various state agencies. The report first summarizes and compares the findings of three earlier studies of the college-state relationship: (1) William P. Smith's 1968 research into the legal basis of the powers assigned to the newly established CCC Board of Governors and of local boards; (2) Charles W. Brydon's 1973 survey of local perceptions of the state's power with regard to curriculum, personnel, facilities, planning, students, and governance; and (3) Thomas J. Nussbaum's 1979 examination of state functions as perceived by the Office of the Chancellor. The report then examines legal issues in the areas of affirmative action, collective bargaining, and the 1979 Permissive Code, which authorizes local districts to initiate any program that is not in conflict with state law. Relevant litigation is cited to illustrate how the responsibilities of both state and local authorities have been increased by these mandates while the resources to deal with them have not. The report concludes with an examination of the political motivation behind the creation of state minimum standards as revealed in a study of the highly detailed Extended Opportunity Programs and Services regulations. (JP)

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THE ESSENTIALS OF LOCAL AUTONOMY:

A Contemporary Focus

on

Control and Responsibility

A Report to the Board of Directors

of the

California Community and Junior College Association

by

George W. Clark

May 5, 1980

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THE ESSENTIALS OF LOCAL AUTONOMY: A CONTEMPORARY FOCUS ON CONTROL AND RESPONSIBILITY

Introduction

This report examines the process and structure of control in the California community colleges. The study focuses on the relationship between the Board of Governors of the California Community Colleges/Chancellor's Office and the local district, but recognizes that other agencies and forces play significant roles. The study relies on the survey work of other authors, reports and commentaries from college leaders, agency working papers, and interviews with selected individuals with special competencies. The work of Smith (1968), Brydon (1973), and Nussbaum (1979) all deal with the legal allocation of powers, duties, and functions between local and state boards. These works show both process and structure at a specific point in time, captured as it were in a "snapshot." The time frame of this study is only slightly over a decade during which the basic legal structure remains in place. Yet, in this relatively short period there have been major changes in institutions, assigned responsibilities, and personnel.

One of the early options considered was to replicate Brydon's survey. While the idea had initial appeal, that option was rejected because of time constraints, major changes in personnel laws, shifts in control centers, and a negative survey climate. Further, Brydon's work was a survey to determine the local perceptions of how well or if a state agency was performing its delegated functions. The general degree of satisfaction reported certainly was related to the wide agreement that the local district was more influential in key decisions. Not included were any comments from the state board or staff. The design group felt that such perspectives should be included.

This study was authorized by the Board of Directors of the California Community and Junior College Association as a part of its ongoing service to its constituency. The Board indicated a desire to examine the recurring issues of control in a contemporary context with a larger arena, more players, and intensified conflict. The Board also indicated concern for conventional wisdom saying "no one's in charge," the "inevitable" growth of state regulation, and the "impossibility of rational planning in a chaotic, ad hoc, brush fire world." The study, it was hoped, would lead to pragmatic suggestions for striking a workable balance of control and responsibilities among emerging centers while carefully observing the diversity and local control history of the member colleges.

The study overlays the work of Smith, Brydon, and Nussbaum and reports the expansion of function and responsibility of both local and state boards. At the same time other centers have emerged while performance responsibility has remained ambiguous. A suggested agenda includes cooperative disclaimers in reallocating powers appropriate for the 1980's.

Study Design

The study was completed during the spring of 1980 with the assistance of two groups established by the Board of Directors. The study design and procedures group included Robert Bolan, Charles Brydon, Chester Case, and Rudy Melone. They were extensively involved in resource identification, study design, validation of illustrative material, and commentaries on early drafts. This group also presented a progress report and solicited comment at the Spring, 1980, Delegate Assembly. The author accepts responsibility for the study, but recognizes with appreciation the expert assistance of these individuals. A second and larger group was designated by the Board to provide CCJCA perspectives and suggest uses for the report. The names of these contributors appear in Appendix A. Many of these individuals have extensive experience in college affairs at both state and local levels. This group received copies of the report for review and comment prior to submission to the Board of Directors.

Also, in making this study the author interviewed a number of individuals for firsthand information. Several were particularly helpful in suggesting alternate relationships, questioning assumptions, and challenging perspectives. A list of those interviewed appears in Appendix B.

A particular note of appreciation is extended to the staff members at CCJCA and Napa College. Their willingness to include this report in busy work schedules is another illustration of their competence and dedication.

Smith; Positioning of Functions, 1968-69

William P. Smith, Jr., was a consultant to the Coordinating Council for Higher Education--a forerunner of the California Postsecondary Education Commission (CPEC). As an attorney with considerable background in junior college practice, Smith was employed to research the legal basis of powers that should be assigned to the newly established Board of Governors of the California Community Colleges. Smith reviewed the powers then legally assigned to the State Board of Education/Superintendent of Public Instruction/Department of Education and identified those to be transferred. At the same time, college leaders forwarded a request that the powers of local governing boards be specified. Smith identified local and state powers, thereby earning the general support of the colleges and the Coordinating Council. The "powers, duties, and functions" were substantially enacted by the Legislature in 1969 by adding sections to the Education Code (Board of Governors, 200.2-200.22, and local boards, 1010.3-1010.14).

Board of Governors

1. District organization (200.3)
2. Interdistrict coordination (200.4)
3. Approval of out-of-district classes (200.5)
4. Academic master plans (200.6)
5. Minimum graduation requirements (200.7)
6. Program approval (200.8)
7. Approval of criteria for graded and nongraded classes for adults (200.9)
8. Classes for adults (200.10)
9. Minimum standards for employment (200.11)
10. Conducting statewide research (200.12)
11. Facilitating articulation with other segments of higher education (200.13)
12. Representing the junior colleges before the state and national legislative and executive agencies (200.14)
13. Administering operational and capital outlay programs (200.15)
14. Establishing a uniform system of budgeting and accounting (200.16)
15. Establishing out-of-state tuition fees (200.17)
16. Procedures governing interdistrict attendance agreements and restrictions of attendance between districts (200.18)

(17.) Establishing space and utilization standards (200.19)

18. Recommending procedures concerning campus site selection (200.20)

19. Planning for and advising on financial assistance and scholarship programs (200.21)

20. Establishing minimum procedures to be used by local districts to insure to faculty and students the opportunity to express their opinions at the campus level (200.22)

Note: Items in ( ) appear only on the BGCCC list.

The counterpart for local boards was nearly as diverse in range and specificity.

Local Boards

1. Establishing policies for educational plans and programs (1010.3a)

2. Establishing academic and facilities master plans (1010.3b)

3. Approving total educational program of colleges within the district (1010.4a)

4. Submitting program to the Board of Governors of the California Community Colleges (BGCCC) for its approval (1010.4b)

5. Establishing policies for and approving individual courses (1010.4c)

6. Approving all classes for adults and submitting all classes as are eligible for state apportionments to the BGCCC (1010.4d)

(7.) Approving and providing classes, programs, and facilities under provisions of the Community Service Act, the Civic Center Act, and the Recreation Act as deemed appropriate (1010.4e)

(8.) Establishing policies for and approving all other programs and services of the junior college (1010.4f)

(9.) Establishing policies for and approving procedures for the adoption of instructional materials (1010.4g)

(10.) Determining which holidays are to be observed and on what days within the framework of providing the necessary number of days of instruction to qualify for state apportionments (1010.5)

11. Establishing academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the BGCCC (1010.6)

(12.) Determining operational capital outlay budgets . . . determining need for elections for override tax levies and bond measures (1010.7)

(13.) Managing and controlling district property, contracting for procurement of goods and services (1010.8)

(14.) Receiving and administering gifts, grants, and scholarships (1010.9)

15. Establishing such student fees as it is authorized to establish by law (1010.10)

(16.) Employing and assigning all personnel not inconsistent with the minimum standards adopted by law (1010.11)

(17.) Providing such auxiliary services as deemed necessary to achieve the purposes of the junior college (1010.12)

(18.) Establishing rules and regulations governing student conduct, providing for opportunity for students and faculty to express their opinions at the campus level (1010.13; see EC 71079)

19. Applying directly to federal agencies or state agencies operating federal programs in order to obtain federal funds in accordance with general policies established by the BGCCC (1010.14)

Note: Items in ( ) appear only on the local boards list; in item 18 only the first section applies.

The legislative intent was appended as a footnote to the bill as follows:

> "This article shall be construed as an expression of the policy of the Legislature with regard to the functions of the above mentioned boards (Board of Governors and local districts) but shall not be construed as an enactment of specific legal provisions. Nothing contained in this article shall supplant existing law."
> (Chapter 1549, 1967)

There was legislative recognition that a new state agency was being established with rule-making authority to:

> "provide leadership and direction in the continuing development of community colleges . . . maintaining and continuing, to the maximum degree permissible, local autonomy and control in the administration of community colleges." (EC 71023)

In retrospect, it seems clear that the allocation was a political compromise. Since then some of the items allocated to the Board of Governors have faded in significance, others have retained their importance, and new issues have emerged. A review of the allocation of powers and responsibilities suggests the following generalizations:

1. Responsibility for the performance of a function is ambiguous. The action terms for the state board range from advising, planning, facilitating, and conducting to establishing, administering, and approving. For the local boards, the range of terms is narrower

including establishing, approving, submitting, determining, managing and controlling, contracting, and applying directly.

2. There is no internal distinction among or between "powers, duties, and functions," nor between policies or procedures at either the state or local level. The Title 5 "minimum" standards range from a sentence or two to pages of specific detail.

3. It appears that the emphasis is more on the transfer of authority from other agencies to the Board of Governors with the pragmatic decision to let things sort themselves out between state and local levels over time. (EC 71024)

4. Some recognition is evident of the need for one level or the other to be in relative charge as some functions appear only on one list, as indicated by the ( ) items.

5. Other items appear on both lists without attempt to resolve initiation, review, or criterion-setting responsibility (educational programs).

6. Other items appear directly contradictory or share the action: having the local boards approve educational programs with the state agency having financial review, having the local boards apply directly for federal funds with the state agency administering federal funding, having the local boards provide auxiliary services and contract for goods and services while the state agency develops a uniform budgeting and accounting manual.

7. Finally, many items carry no scope limits and no provision was provided to have either level "disclaim" a power, duty, or function allocated to the other level. The academic calendar started with a simple 175-day requirement, but flexible calendars required special legislation.

It may be helpful to remember the college context of the late '60s. The colleges had grown rapidly, prospered under the umbrella of the secondary framework, and developed wider support under the Master Plan for Higher Education (Donahoe Act), and many had moved to separate districts independent of their high school origins. That move to separate local districts had its parallel at the state level in separation from the State Board of Education/ Superintendent of Public Instruction/Department of Education.

Brydon; Local Perceptions of State Functions, 1973

Charles W. Brydon was a member of the staff of the California Community and Junior College Association. He was employed by that voluntary Association (not a state agency) to study "discernible trends toward greater centralization in the control and coordination of public higher education." In Brydon's introductory remarks, he defined the California context as "essentially voluntary and pluralistic," questioned whether such a system of overlapping responsibilities can be preserved, and argued:

> "that if the organizational advantages of flexibility and responsiveness, inherent in a decentralized system, are to be retained, then ways will have to be found to make the present system more effective." (3: p2)

Brydon reviewed the legal structure and, using a task force of local practitioners (trustees, chief administrators, and faculty senate presidents), developed a survey instrument designed to identify local preferences toward (1) the location of decision-making over time and within the structure of the system, (2) how well ten specific functions were working in their districts, and (3) various coordination/control options. The survey instrument had a response of trustees, 185, or 45.2%; chief administrators, 88, or 79%; and faculty senate presidents, 66, or 72%.

The Brydon task force selected ten items from the powers assigned to the state. These items were selected to illustrate the broader categories of curriculum, personnel, facilities planning, students, and governance.

"1. Standards for Graded and Nongraded Classes
2. Academic Master Plans
3. Space and Utilization Standards
4. Employment Standards
5. Freedom of Expression
6. Campus Site Selection
7. Academic Standards
8. Student Financial Assistance
9. Representation
10. Articulation" (3: p8-9)

All of the items except Academic Standards can be related directly to the earlier listing of Smith. The Academic Standards item could be related to minimum graduation requirements but seems more general and may include aspects of probation, dismissal, and readmission policies previously assigned to local boards. In any event, the respondents agreed that this function was essentially decided locally along with all the others, despite the formal allocation to the Board of Governors.

Brydon's work is important in that it summarizes the perceptions of local college decision-makers. At that time, some five years after the Legislature, following Smith's plan, had assigned certain functions to the Board of Governors with regulatory powers, Brydon could report that:

> "Most significantly, there is strong agreement among California leaders that at present (1972-73) the local level in the governance

structure (college and/or district staff and local trustees) is most influential in deciding issues or setting policy concerning the key community college issues. When considering all ten issues, an average of 63.5 percent of all respondents believe that at present the ten issues involved are decided at the 'local' level." (3: p9)

Commenting further on the meaning of such a perception, Brydon suggests that:

"this finding illustrates the ineffectiveness of the categorical attempt to place each of the functions under a state agency with regulatory powers." (3: p17)

The location of decision-making at the local level had greater agreement from faculty and trustees than from administrators. In addition, the administrators projected further decline of local impact for the future.

From a contemporary perspective, the local perceptions of key issues cannot be assumed to be identical with that of persons working at the state level. For example, there was no mention of fiscal support in even the broad categories of the task force. The relationship of program and service to fiscal support continues to demand the major attention of all.

A further limitation of this survey is more subjective. Operational control of the colleges clearly lies with the local district. The programs are offered locally, the quality is determined locally, and the personnel are selected locally. Further, it may be recognized that some minimum standards are met routinely (credentialing), while the local decision of who should be employed is much more significant. Local staff may then legitimately perceive that the local district is most influential in "key" decisions selected locally.

However, if we look for a moment at an example of a delineation of functions issue, adult education, other factors emerge. This function has been provided by high schools, community colleges, senior public and private institutions, and proprietary schools. Such an issue might have been on several state lists of concerns over the past decade with maximum service at minimum cost as a criterion. This item has been on the agenda of the Legislature for some time, and a recent "solution" was the creation of Regional Adult and Vocational Education Councils (RAVE Councils). This structure provided for local interinstitutional examination of public programs for the explicit purpose of elimination of unnecessary duplication. The councils were funded for one year and then left in place without funding following the passage of Proposition 13. The Superintendent of Public Instruction and the Chancellor of the California Community Colleges jointly issued a memorandum announcing that if no objection to a program was received, the assumption would be made that the program was approved locally. It is an interesting response by two agencies to accommodate a nonfunctioning mandate.

The point to be made here is that this legislative action took place outside of the framework of the delineation of functions agreement and attempted to create a regional decision arena. This example suggests the existence of a larger context than was identified by the Brydon snapshot. Or, to put it more generally, while local districts and the Board of Governors/Chancellor's

Office engaged in a slow, trial-and-error, ebb-and-flow process of issue by issue sorting out the actual arrangement of powers and responsibilities (inside or outside Smith's initial sorting), other players stirred the Legislature to more rapid action. It may be observed that there was still no clear indication of a governing logic for the actual assignment of powers and functions. What was clear was the abundant rhetoric, heated feelings, specious authorities, and rigorous politics.

Other conclusions from Brydon's thoughtful work indicate that the issues relating to control continue to demand attention. He reported that:

"1. A basis exists for working out a balanced relationship between local districts and centralized state agencies;

2. A balanced relationship of cooperative coordination has every potential of being fully supported by the vast majority of decision-making participants;

3. Community college leaders reject control by a state agency with mandatory authority;

4. Support for cooperative coordination is issue specific, i.e., it is conditional and relative to the particular issue in question;

5. The trustees, senate presidents, and chief administrative officers do not perceive the Board of Governors as being most influential or decisive in those areas delegated to them under the delineation of function agreement . . . . This gap between intent and operational practice is simply too important to ignore."

(3: p16-17)

In reviewing these conclusions from a perspective of the 1980's, Brydon agrees that one of the strategies of political maneuvering is the delay of resolution when contending parties have irreconcilable differences. In 1967 the newly created Board of Governors had little political influence commensurate with that held collectively by the local districts. It had neither the staff nor the funds to demonstrate its capacity to provide services to the colleges that could be seen as valid trade-offs for increased "coordination." However, the districts themselves were unable to have their first choice in structuring the office, setting the salary level of the Chancellor, or choosing the personnel. As reported in the interviews, the local views about the level and kind of service have not changed markedly over the years with the changes in members of the Board and in the Office of the Chancellor. Major exceptions to that generalization were noted in the construction of facilities and Chancellor's staff leadership in developing finance legislation.

In an interview on April 4, 1980, Brydon observed that the need for voluntary compliance is as strong or perhaps even stronger today as in 1973. With time has come the common perception that the state holds or is seeking greater control. This has bred a host of subtle avoidance mechanisms that complex organizations utilize to balance control and responsibility. If one accepts the premise that cooperation is more effective and realistic than legal or economic sanctions, then finding a basis for compromise is more important than ever. It becomes a matter of identifying the appropriate

issue areas and developing delineations of functions that will operate through clear delegation of authority and appropriate reporting procedures without the need for heavy-handed enforcement. Further, voluntary compliance exists when a group of people agree to a course of action that they think is in harmony with the intent of the law.

Nussbaum; State Perceptions of State Functions, 1979

Thomas J. Nussbaum is the General Counsel of the Chancellor's Office. In this capacity he has been the principal author of several studies reviewing agency functions as mandated by the Legislature. These studies comprise the third major "snapshot" of the process and structure of control. This activity was initiated during William Craig's term as Chancellor and is both ongoing and evolving in purpose. The initial rationale for this work appears in a July, 1979, agenda item of the Board of Governors relating to its budget. The statement is made that staffing for the agency has not kept pace with legislative mandates. The section goes on to detail an actual reduction in staff (from 141 in 1977-78 to 125 in 1979), while the mandates have grown from 520 to over 600. A four-level response has been undertaken:

"1. Eight major agency objectives were identified, which included securing a long term finance system, streamlining district governance and operations, developing the information system, and devoting more staff time and resources to the leadership and service functions of the agency.

2. A review of the mandates resulting in successful legislation which repealed or amended some 270 of 600 mandates (AB 1549, Vasconcellos, 1979).

3. A request for additional staff (the proposed budget for 1980-81 has some $300,000 allocated for new personnel).

4. Assign priorities to the remaining functions taking into consideration the agency objectives identified in #1 above (approved by the Board of Governors in July, 1979)." (11: p34)

Like Brydon, Nussbaum returns to the delineation of functions by Smith. Smith sorted powers and functions; Brydon asked local staff what they believed; and Nussbaum stood inside the Chancellor's Office and asked, "What are we supposed to do and how?" He was not primarily asking that question vis-a-vis the local districts but first internally, then to the Legislature and other state agencies, and then to the local districts. The review of mandates was extensive and led to several findings regarding the effectiveness of the Board of Governors/Chancellor's Office. A later report identifies "Problem Areas Contributing to Ineffective Governance," which are listed in the Reference Manual as:

"1. The agency has insufficient staff to carry out its mandates;

2. Regulatory and compliance functions have tended to preoccupy the agency;

3. Units within the agency have tended to work in isolation;

4. Board policies have tended to be adopted in isolation . . . with little emphasis on interrelation, review or implementation.

"The interplay of these problem areas has, over time, had the effect of creating uncertainty as to the roles and responsibilities of the Board of Governors and Chancellor's Office, as well

as the roles and responsibilities of local district boards of trustees. This uncertainty as to roles and responsibilities has in turn contributed to a 'governance vacuum', especially with respect to decision-making and policy setting from within the community college system. All too often, Chancellor's Office staff and local constituencies in the districts and colleges work at cross purposes, rather than as a cohesive unit with shared responsibility.

"Because the Board of Governors and Chancellor's Office have at times been relatively ineffectual at addressing not only their own concerns, but also the concerns of the legislature, other state agencies, and local districts, many of the policy decisions which should have and could have been made from within the community college system have been made by the legislature and other state agencies. Given the shift of 80% state funding which has occurred during the past two years, the tolerance to this governance vacuum will most probably lessen. At the very least, there is bound to be increased scrutiny as to how districts are accountable to the state for its investment.

"In order to preserve local policy making and avoid the further intrusion of the legislature and other state agencies into areas of policy that should be decided from within the system, the system must demonstrate that it can provide (for) effective legitimate state interest. Failure to make these kinds of demonstrations and, more indicting, the failure to acknowledge and attempt to address the governance vacuum will inevitably result in some form of budget review or greater control and oversight of the system by the legislature." (11: p3-4)

The term "governance vacuum" is interesting in several ways. First, Brydon uses the same term when he describes conflict between the local district and the Board of Governors reaching an impasse (vacuum) and then the state as another force steps in. Brydon, in 1973, further characterized the local perception of the state agency as not being influential or decisive. Seven years later Nussbaum's report repeats the metaphor, acknowledges the relatively ineffectual performance of the Board of Governors and Chancellor's Office, and then moves on to predict the "inevitability" of "budget review or greater control . . . by the Legislature."

"Vacuum" and "inevitability" are dramatic terms that are conversational in tone but may be overly simplistic when applied to the workings of complex organizations and political trends. The history of the intervening years may be read with more precise meaning than "vacuum" conveys. What really happens is that the action shifts: others may decide the issues, the problems fester or resolve themselves, or the role or mission of the agency is altered. Other examples of "vacuums" might be noted to provide perspective: a Governor absents himself from the state for extended periods, strong partisan political forces contend over the Speaker's office, or one state agency struggles with other state agencies over its own role and credibility while ignoring its own clients.

A "vacuum" may also describe inactivity where authority/responsibility lies. Currently the terms of seven of the fifteen-member Board of Governors have expired. No agency can perform its functions when its policy-setting board is in limbo. This status impacts the credibility of the Governor and agency in the eyes of its own staff, the community colleges, and the Legislature. The recognition and respect for the legitimate divergent interests involved in any

issue is key to achieving that efficient and effective condition called voluntary compliance. This condition does not exist in the examples noted above. Put more pragmatically, when diverse leaders agree on a course of action, the wheels turn.

The basic functioning of offering educational services in the colleges continued; the students were enrolled, their academic progress was recorded, the staff was paid, the facilities built and maintained, and reports of same produced and distributed. To describe this activity as happening in a "vacuum" is too simple. It might be more accurate to state that the control of decisions which did not in practice rest with the Board of Governors in 1973 had failed to lodge there by 1979. Key governance decisions were made in the courts (centralized), in the polling booths (decentralized), and in legislative and academic responses, both state and local.

The term "inevitable" also demands commentary as a trend indicator. Legislators respond to requests by turning to others for advice and counsel. Frequently, and particularly when the request is complex and controversial, the legislator turns to a state agency, his own staff, or may even set a hearing or special study. Two state agencies that have a long history of comment and response on all money matters in the state are the Department of Finance and the Office of the Legislative Analyst. No one assumes that the recommendations of these offices have lost weight over the years. The political process in Sacramento points to the increasing number of mutually supportive recommendations coming from these two agencies. In fact, their influence is such that representatives of the Department of Finance now sit with the budget development groups within the four-year segments of public higher education. Recent examples can be shown where the California Postsecondary Education Commission joins in "advisory" harmony with other regulatory agencies to espouse "efficient and effective" changes in the funding and operation of the colleges and universities. Recurring multiple reviews are not unusual as these agencies share perspectives of uniform control procedures.

All this would seem to reinforce the greater concentration of decision-making in centralized forms. However, countervailing forces are operating, and they need attention. Faculty and staff unions, with their new collective bargaining roles, expect increased impact at the local level for negotiation and at the state level for legislative support. Deregulation is a potent political force and its impact on services is not restricted to airlines. Federal agencies such as the Occupational Safety and Health Administration and the Federal Trade Commission have been greatly altered by this thrust. Other state agencies are dealing with "sunset" laws and growing legislative review of agency regulations. The California Assembly has just created a new committee with the charge to review state government interference with local government.

It is not too much to say that this form of consumerism has wide support in the political and corporate world. When the force of taxpayer initiatives rewrites the California Constitution, there must be some doubt that the centralization theory is "inevitable." Other observers report that as resources shrink control of programs is denied legislators; local contending parties resort to cannibalism (highways vs. mass transit, counties vs. cities, transfer education vs. basic skills) and destroy both provider and consumer as programs close. In such a context "inevitable" presumes more continuity than exists.

This is not to say that the activity of the Chancellor's Office "to improve statewide governance and make more coherent its role" is without merit.

The reverse is true. Any improvement in the functioning of that office will be beneficial for the local colleges. An immediate qualification needs to be inserted concerning improving statewide governance. Brydon's conclusion stressing voluntary compliance on specific issues needs to be recognized and broad agreement reached on the areas where the Chancellor's Office should concentrate its energies. Predictably, there may be little local support for increasing regulatory action affecting educational quality, student discipline, and employee status. On the other hand, there well may be broad support for a utilization formula for construction projects, attendance accounting procedures, and basic funding mechanisms.

A careful review of the delineation of functions agreement shows that structurally it has remained in place since enacted in 1969. Nussbaum's monograph (13) prepared for a presentation to new presidents in 1979, provides a ready reference of the changes. Expansion of the Board of Governors' major powers and responsibilities came from several transferred from other state agencies in the 1974 Education Code (Reorganized) and the other came from new laws (Educational Opportunity Programs and Services).

Three of the changes are:

1. Administering state and federal support programs for community colleges, including general state aid for operations, categorical aid for disadvantaged (EOPS) and handicapped students and capital outlay;

2. Establishing minimum standards for the receipt of state aid, and annually monitoring compliance with such standards; and

3. Exercising general supervision over community colleges.

It is clear that the condition of ambiguity of control continues. The state has taken no action in several areas where the mandated function was assigned over a decade ago. Local districts continue to operate with something less than precise attention to certain accounting procedures and the common accounting manual has never been applied to the treatment of district reserves or the generation of non-tax funds. There may be valid reasons for each decision or omission, but the control remains ambiguous. Some political scientists dismiss the situation by reminding us that legislation does not control society, but that society shapes legislation. The reorganization of the Education Code was not intended to make substantive changes, and in general, that intention was carried out. However, the general supervision power may be a substantial change. One wonders if the general supervision power was rejected earlier as not being appropriate in a list of specific powers. This perspective is suggested in a Nussbaum commentary about Education Code Section 71024, which is a general transfer of power from agencies prior to the creation of the Board of Governors. (10: p23)

A second comparison might be drawn between little regulatory activity undertaken around library support (EC 18101, 18121, and 18122) and extensive regulation concerning EOPS (EC 69643-69654 and California Administrative Code, Title 5, 56200-56296). This comparison clearly demonstrates the difference between a general support service and a categorical service. In the latter case, EOPS carries a clearly identified budget and the minimum standards are very specific. The process and structure of control for this particular service is explored later.

The powers of local boards were changed more noticeably in the "Governance" monograph, but after review with the author, some of the changes were more editorial than substantive. Others seem to be omissions that reflect structural change, planned or incremental. Local "powers, duties, and functions" that were missing included setting of the academic calendar, receiving and administering gifts, grants, and scholarships, and applying directly to federal and state agencies operating federal programs to obtain federal funds.

The academic calendar has received more attention in an effort to develop a more flexible delivery system without placing the attendance generated in financial jeopardy. Both other omissions relate to the local generation of funds outside of state support formulas.

New Mandates: Affirmative Action, Permissive Code, and Collective Bargaining

Aside from the incremental additions from earlier agencies, there are other mandates enacted recently, sometimes reinforced by federal action. Three significant ones recognized by Nussbaum are Affirmative Action, Permissive Code, and Collective Bargaining. Each of these require sharply divergent but shared operations between local districts and state agencies. All of them illustrate how the responsibilities of both levels have increased while the resources to deal with these matters have not. Each illustrates the contention that the issue of local autonomy is played out in a much larger context than the conventionally perceived tug-of-war between the local district and the Board of Governors and Chancellor.

Affirmative Action

The enactment of Affirmative Action legislation is a substantive change in both process and structure of control of personnel within a college. The Legislative Counsel's Digest of this bill stated:

> "Existing law contains various provisions prohibiting discrimination on the basis of specified criteria.
>
> "This bill would expressly provide that no person shall, on the basis of ethnic group identification, religion, age, sex, color, a physical or mental disability, be unlawfully denied the benefits of, or be unlawfully subject to discrimination under, any program or activity that is funded directly by the state or receiving any financial assistance from the state.
>
> "In addition, the bill would, in accordance with specified procedures, require state agencies that administer programs and activities that are funded directly by the state or receiving any financial assistance from the state to take action to curtail state funding to a contractor, grantee, or local agency that violates such provisions.
>
> "This bill would also require such state agencies that enter into contracts for the performance of services to be provided to the public in an aggregate amount in excess of $100,000 per year to adopt, pursuant to specified provisions, regulations to implement such provisions.
>
> "This bill would declare that such prohibitions and sanctions are in addition to any other prohibitions and sanctions imposed by law and would direct the Secretary of the Health and Welfare Agency, with the advice and concurrence of the Fair Employment Practices Commission, to establish guidelines and standards to implement the provisions of the bill." (AB 803 - Chap. 972, 1977)

Note that the Legislature assigned regulatory responsibility to the Health and Welfare Agency for all state agencies including education. Currently the colleges respond directly to the Equal Employment Opportunities Commission and Fair Employment Practices Commission for challenges filed under their regulations. The regulations for this mandate are now being circulated by the Secretary of Health and Welfare, and the target date for implementation is

July 1, 1980. Therefore, the Chancellor's staff see an emerging responsibility for "investigating and monitoring any discrimination pertaining to any community college student or employee." Will such a mandate eliminate the direct response or add another layer?

A second example concerning Affirmative Action may be drawn from the experience of Allan Baake at the University of California, Davis. Commenting on Baake, Allan Sindler, Dean of the Graduate School of Public Policy at the University of California, Berkeley, raises four basic questions about affirmative action strategies (15: p51-52). The first is the classic "Who decides who decides?" admissions to law or medical schools. He lists the options of faculty, courts, or "the political process" and indicates a leaning toward the political. The second questions the assumed equivalency of women and minorities in academic credentials and suggests they are not equivalent. The third questions the ability of a governmental mandate to self-destruct over time, and the fourth questions preferential admission for the disadvantaged regardless of race as opposed to just race, and contrasts the opinion of Justice Douglas in the DeFunis case with Justice Mosk's commentary on Baake. Sindler supports the Douglas position that racial objectives are forbidden and dismisses the Mosk contention that racial objectives are compelling and, therefore, permissible, but that you cannot use racial means to reach those objectives.

Again, this area is outside the snapshot of either Smith or Brydon. It does raise the question of "Who decides who decides?" Clearly the college, the system of higher education, the Legislature, and the courts are all involved. When society is struggling with new concepts of redressing previous social wrongs, the shared responsibilities are pressing but unclear. Sindler makes a cogent case for the Legislature to formulate public policy. In California, the initiative, referendum, and recall provide alternative routes for societal change.

Permissive Code

A second change rising from recent legislation is the Permissive Code. On January 1, 1976, schools and colleges were authorized to:

> "initiate and carry on any activity or program which is not in conflict with, inconsistent with, or preempted by any law, and which is not in conflict with the purposes for which school districts are established." (EC 72233)

The impact of the Permissive Code has been minimal, largely because of the existence of other extensive regulatory codes in the state. Legal advisors find it impossible to determine when the state has "fully occupied" the field. Further, local and state agencies are "regulatory minded" in that personnel have been conditioned to "look for the regulation" and act accordingly. One recent example from the Community College Construction Act will illustrate this tendency toward regulation. The Board of Governors had never adopted regulations covering the procedures for constructing facilities totally funded by local money. When a college questioned how it could be prohibited from proceeding, the Chancellor recommended adoption of exactly the same extensive review procedures for locally funded projects as had been used for state-supported ones. They were quickly approved with the promise to develop more liberal regulations later.

With that as a model, the Permissive Code will not soon be a realistic basis for action. The Permissive Code received minor attention on the priority list of the Chancellor's Office for 1980-81.

At another level, the existence of the Permissive Code has had a broad, although as yet minor, influence. It has broken the old regulatory guide based on "shall" or "may." Code sections are no longer read with the certainty that they once were. The overuse of the phrase "notwithstanding other provisions" has played a part in this growing ambiguity, but some impact must be credited to the attempted inversion of the mandatory structure. Recent interviews with district counsels reflect increasing willingness to challenge state regulation in the area of regulatory inactivity, as well as omission, with particular emphasis on educational programs, personnel, and private funding. State agency personnel regard mandates to enhance local decision-making as non-mandates or dismiss such activity as irresponsible "rip-offs" or "game-playing" by locals.

One approach that has been helpful in assigning responsiblity is a negative delcaration of authority or a disclaimer. During the recent litigation over the rights of part-time faculty, several suits attempted to include the Board of Governors as an employer. The consistent response from the Board was that the local districts employed faculty and that the Board did not. Other states have the situation where the state board has co-employer status. Extension of the nonemployer disclaimer directly to affirmative action and collective bargaining issues would be consistent personnel policy. Similar disclaimers concerning educational offerings and student behavior might be appropriate. Perhaps a serious examination of the scope of the Permissive Code from a deregulatory perspective could provide the arena for such disclaimers, as the Chancellor's Office works to provide more coherence to its operation and improve statewide governance. Such disclaimers need to be directed to other state agencies and the Legislature if the Board of Governors/Chancellor's Office are to be accountable for performance responsibilities.

Collective Bargaining

Perhaps the most significant change in personnel matters since 1973 has been the enactment of a public collective bargaining law. The application of collective bargaining now covers all state employees except confidential and management employees. In January of 1979, the Governor asked the Commission on California State Government Organization and Economy (the Little Hoover Commission) to review the state's personnel system. That report was issued under the title of "Personnel Management in the State Service" in August, 1979. While it deals with civil service and not staff in the community colleges, there are a number of comments appropriate to all public agency personnel working under a collective bargaining law.

> "A personnel system in a public agency today must provide quality and timely personnel services in a cost effective manner by utilizing the most advanced personnel techniques; meet the requirements of open competition; insure selection and promotion by merit to avoid the dangers of political patronage; assure representativeness in the work force; set standards of work force performance; provide effectiveness in a collective bargaining setting; and guarantee that nonperformers and sub-standard employees are removed from the work force. The present State system falls far short of these requirements.
>
> "Although by comparative standards the State system is well run, both the Federal and other personnel reforms and actions beginning in other states point up the need for sweeping changes in traditional civil service systems, including that of the State of California. This need for change was supported by the findings of our survey

which included an analysis of responses from rank-and-file employees and executives in State service. Only a fourth of the employees and 12% of the executives believe that the system encourages a high degree of efficiency, effectiveness, and economy in the State's programs. Only 27% of the employees agree that the personnel system is fair to employees and operates effectively to protect merit. Only 33% of the employees and about 39% of the executives agree that SPB is effective in informing employees about personnel policy or program changes that may affect them. Finally, only 17% of employees and 23% of the executives agree that management is given enough opportunity to participate in the making of personnel policy that affects them" (14)

One should stress caution in drawing parallels between the state civil service and college personnel practices and recognize major differences between colleges, on the one hand, and, say, the Department of Fish and Game, on the other. However, the greater concerns of the best use of personnel resources are common to all public agencies. The respondents to the Hoover Commission survey were commenting on a highly centralized, technically oriented classification structure where equity had been stressed and political patronage sharply restricted. Both employee and manager reported negatively on the imposition of collective bargaining on the structure. Particular criticism was directed at the lack of efficiency, effectiveness, and economy. More surprising was the agreement that management does not have an accountable role in the system. The personnel within the civil service are less than satisfied with the process and structure of salary setting. This study has direct application to the Chancellor's staff.

The study goes on to identify constitutional constraints in the function of the State Personnel Board and the emerging function of the Office of Employee Relations in the Governor's Office, along with recommended changes. A recent court challenge to this collective bargaining law has been supported at the Appellate level. The Third District Court of Appeal in Sacramento declared the law unconstitutional saying:

"It is in the assignment of the salary-setting function to the bargaining process between the governor and employee representatives that (the law) comes into fatal conflict with the Constitution."

It is expected that the case will be appealed to the State Supreme Court while the existing salary-setting mechanism functions in a context that can well be described as confused.

The study has indirect relevance to community colleges in assessing the impact of collective bargaining on the process and structure of pay determination. The study conclusions have college district elements inserted in parentheses to make the application clear.

"1. The Legislature (Board of Trustees) becomes more directly involved in the pay determination process.

Pay and other bargaining decisions requiring the expenditure of funds have thus been raised to the same level of importance as other fiscal policy matters before the elected representatives of the people. It is reasonable to conclude that they will attract new attention. The Governor (administration), State (college) employees, and affected publics can focus for the first

time on the specifics of pay recommendations which are brought to the consideration of the Legislature (Board of Trustees).

2. The pay-determination process, per se, will be less governed by technical factors, less a 'system' designed to maintain the 'integrity' of inter-class relationships on a service-wide basis.

   Previously the assignment of a class to a cost group determined the salary-setting for that class. Since managers have objected to the practice and employee organizations have been critical of SPB decisions on those assignments, it can be assumed that for non-supervisory employees 'the system' will be more flexible, removing the restraints of a 'system' and providing for opportunity to remedy the individual inequities often created by such systems. Even when such inequities persist, bilateral determination provides for greater acceptability by employees.

3. State Employer-Employee Relations Act will require a degree of preparation on the part of the State (local district) not presently indicated by position estimates for Fiscal Year 1979-80.

   The party best prepared for negotiations and best trained for administration enjoys the advantage in the environment of collective bargaining.

   a. With respect to negotiations, the Office of Employee Relations (district) will need to back up proposals, or to reject or modify proposals, on the basis of facts. Facts mean research and analysis, including full costing out of proposals which may not involve pay or benefits but which modify other types of employment conditions. Even if the parties agree to conduct joint surveys of pay and benefits, or to use a respected neutral to conduct such surveys, it would be a most remote possibility that they would accept joint analysis of the data or the analysis of the neutral fact-finder, since neither party to the bargaining can be considered to be purely objective.

   b. With respect to the administration of agreements, the workload shifts from central staff offices (negotiator/Board) to the Departments (administration/supervisors). Only dreamers fail to recognize and provide for additional requirements on the State (district) because of time away from the office of shop stewards and of supervisors when bargaining detailed work regulations, or of supervisory time necessary for training and re-training in the administration of agreements. No one familiar with the process of collective bargaining has ever characterized it as involving less administrative cost than the process of determining pay and employment conditions unilaterally and authoritatively." (14: p11-12)

Local reordering of job titles and responsibilities at the supervisory level is an urgent personnel priority. The role of Division or Department Chair, classified manager of a support service, and the development of supervisory

bargaining units are local agenda items for all colleges. Disclaimers of Board of Governors authority and reduction of legislative intrusion could clarify local faculty, trustee, and administrator responsibilities to resolve such issues at the unit level. Attempts by concerned parties to improve their position by legislative enactment complicate local decisions. The concerns of civil service employees, supervisors, and managers sound similar to those voiced by college personnel. Difficulties in developing and exercising supervisory skills while enhancing individual abilities and rights, providing for increased demands from decreased financial resources, coordinating contracted services (legal, labor negotiator, grievance processing) with in-house management, and maintaining public confidence in quality services during abrasive internal exchanges are common concerns.

It is tempting to comment on the recently adjudicated Peralta Part-Time Suit (24 Cal.3d.369 May 25, 1979), but it continues to be litigated in the lower courts for dependent issues. As these local variations continue to be litigated (reinforcing decentralized decisions), the number of faculty continues to diminish for external reasons. Thomas Phair, in a current study, documents a decline in both full- and part-time faculty by October, 1979. He reports over 1,500 separations of full-time faculty in one year (1978-79) with a replacement total of less than 100. The part-time cadre has declined by some 5,000 individuals from a peak of just over 27,500 in 1974. This environmental shift cannot be controlled by collective bargaining, but failure to address this shrinkage while locked in acrimony may seriously diminish services to students, reduce employment of faculty and staff, and increase taxpayer costs.

A second illustration from the collective bargaining field may be useful. Turning to the federal courts, a recent Supreme Court decision was rendered concerning Yeshiva University in New York. The decision overturned the National Labor Relations Board and its interpretation of the National Labor Relations Act and decided that all the faculty in this private four-year university were managerial. Further, the California Labor Relations Law is closely patterned on the National Labor Relations Act, with nearly identical wording in many of its important sections. This means that the ripple effect will have greater impact in California than in states where the labor laws lack this similarity. To reinforce that perspective, several of the current members of the Public Employee Relations Board have considerable experience with the National Labor Relations Act.

The following excerpts were taken from the majority opinion in the Yeshiva ruling, a 5-4 decision:

> "Faculty power at Yeshiva's schools extends beyond strictly academic concerns. The faculty at each school make recommendations to the dean or director in every case of faculty hiring, tenure, sabbaticals, termination, and promotion. Although the final decision is reached by the central administration on the advice of the dean or director, the overwhelming majority of faculty recommendations are implemented. Even when financial problems in the early 1970's restricted Yeshiva's budget, faculty recommendations still largely controlled personnel decisions made within the constraints imposed by the administration. Indeed, the faculty of one school recently drew up new and binding policies expanding their own role in these matters. In addition, some faculties make final decisions regarding the admission, expulsion, and graduation of individual students.

Others have decided questions involving teaching loads, student absence policies, tuition and enrollment levels, and in one case, the location of the school."

(Quoted in The Chronicle of Higher Education, February 25, 1980)

From the range of reactions following the ruling, have come predictions of extension of coverage of the National Labor Relations Act, as well as cautious estimates of altered practice and decisions of the National Labor Relations Board. This ruling is expected to force the National Labor Relations Board to reach its future decisions on an analysis of the facts of each case. This case analysis requires a reexamination of the bargaining units with an emphasis on the duty performed.

"The Board's opinion relies exclusively on its previous faculty decisions for both legal and factual analysis. 221 N.L.R.B., at 1054. But those decisions only dimly foreshadow the reasoning now proffered to the Court. Without explanation, the Board initially announced two different rationales for faculty cases, then quickly transformed them into a litany to be repeated in case after case: (i) faculty authority is collective, (ii) it is exercised in the faculty's own interest rather than in the interest of the university, and (iii) final authority rests with the board of trustees. In their arguments in this case, the Board's lawyers have abandoned the first and third branches of this analysis, which in any event were flatly inconsistent with its precedents, and have transformed the second into a theory that does not appear clearly in any Board opinion."

(Quoted in The Chronicle of Higher Education, February 25, 1980)

Both examples from the collective bargaining area demonstrate court decisions that require concurrent legislative and agency response. The consitutional disqualification of collective bargaining for salaries by state civil servants forces reconsideration of an issue that had been "determined" by the Legislature. The Yeshiva case forces the NLRB to examine each case on its merits rather than relying on precedent. Both are deterrents in the trend toward collective bargaining by civil servants and academics. One says that a consitutionally based agency (the State Personnel Board) may not have its functions altered by a legislative act, hardly a new idea, and the other raises questions about the utility of the industrial collective bargaining model in some academic institutions. Both cases illustrate the review function of the courts over legislatures and their agencies.

Minimum Standards

Turning from examples drawn from sources external to the colleges, we should examine in more detail the EOPS mandate mentioned earlier (see page 14) as a contrast to the regulatory actions concerning libraries. This very specific mandate appears in the Education Code, Sections 69643-69654. These sections require the Board of Governors to appoint nine members of the Statutory Advisory Committee and designate a chair and vice-chair. The Chancellor is named executive secretary and is required to report actions of the committee and, at the recommendation of the committee, make recommendations to the Board of Governors. The Board is also required to adopt rules and regulations implementing the statutes including regulations which prescribe the procedures by which districts identify eligible students (California Administrative Code, Title 5, Sections 56200-56296). These regulations also specify as minimum standards (really now maximum) what level of administrator will be funded and what support costs will be excluded. While there is a history of external agency review of this mandate, there is no recommendation for a change in standards from the Chancellor's staff as the action has shifted from the agency. EOPS has high political visibility and carries a considerable portion of the Chancellor's budget in contrast to the visibility and unspecified portion of the general allocation for library service.

The program history below appeared in the February, 1980, agenda of the Board of Governors on EOPS:

> "In recent years, interest in the distributive equity of the formula has intensified. Prior to 1976, sufficient questions had been raised to cause the Department of Finance to review the formula. It did so, found the formula adequate in the light of legislative intent, and recommended no further change for at least three years in order to allow funding to achieve stability. The following year, the California Postsecondary Education Commission also reviewed the formula and independently reached conclusions similar to those of the Department of Finance. But in 1978, the next year, the Legislative Analyst reviewed the formula, found it inadequate, and recommended a major change: that 50% of the weight be assigned to an entirely new element, i.e., the number of students actually served.
>
> "In March 1979, Chancellor's staff replied in rebuttal to the Legislative Analyst, citing the Analyst's use of inaccurate data and the massive allocation shifts between programs which would result from implementing the Analyst's recommendations. However, staff did recommend, and the Board adopted, the use of the number of students served as a new element for 1979-80 (although the weight assigned thereto was small). In addition, the Legislature included budget control language in 1978 which effectively did three things:
>
> 1. It superseded previous Board action by mandating that the 1979-80 augmentation be allocated on the basis of 'need' only, and
>
> 2. It further superseded previous Board action by altering the effective weights assigned to each formula element (see Table 1).

3. Finally, it created the Financial Aid Policy Study Group and included within its charge a study of the EOPS allocation formula.

"One result of implementing the control language was the reduction in allocations of several campus programs at a time when the statewide appropriation increased by nearly 18%. Since the reductions occurred primarily in smaller colleges, the reaction was sharp and quick . . . complaints flowed into the Chancellor's Office and Region 6 formally sent a delegation of directors representing smaller colleges to meet with a member of the Legislature. These events raised two more issues: formula sensitivity to the needs of smaller colleges and the impact of the staff review elements in the formula."

The next several pages of this agenda item document the "instability" of the funding formula with various reasons given for its condition. Note the parade of one state agency after another reviewing a program. The pressures to create inaccurate estimates to justify rapidly escalating allocations could not be supported by actual enrollments, let alone student retention or performance. Program variables aside, the Chancellor's "control" mechanism was suspect by the internal staff, other review agencies, and the Legislature. The latter finally resorted to budget control language that effectively altered the procedures and eliminated any concept of minimum standards.

This particular agenda item is an informative direct report of the process and structure of control. It illustrates the complexities of government trying to provide services in an accountable manner. Serious questions are raised about every decision, the competence of staff, and the realities of political compromises. Further, as EOPS is a centralized service with specific regulation and nonfunctional approval steps, it may provide another comment of the "inevitable" outcome of similar structures--the clients lose. An objective assessment should also include the plight of the library services when left without financial base or political champions.

Several other current issues involving minimum standards have been omitted for the clarity and convenience of one contrast showing minimal and excessive regulation. What is seen here can be recognized with equal vigor in regulations developed by any governmental agency--local, state, or federal. Everyone writes rules. The concern here is the incremental expansion of regulation. William E. Simon, former Secretary of the Treasury, was recently quoted in a local newspaper:

"We have become a nation of abdicators--abdicating the education of our children to an army of social reformers; abdicating the incredible productivity of the free market to redistributionist zealots; abdicating our hopes for old age to a computer that spits out government checks worth less and less in real dollars with each passing month. Weary of vigilance, we are abdicating our very right to govern. And thus we leave a terrible vacuum in which government grows."

(San Francisco Chronicle, April 27, 1980)

Note the emotional language and again that favorite metaphor "vacuum." Legislative enactments are generated by staff/constituent pressure or request, never in a vacuum. No rational analysis would view the near absence of library regulation, on the one hand, and the highly detailed regulation of

EOPS, on the other, as reflecting educational need, students served, or quality of program. It is clear that EOPS is a highly visible political solution to constituent pressure. There are those who say that is the nature of the body politic and no more need be said or done. There are also those who think there is the possibility of improving some elements in both the process and structure of control in the community colleges, and it is to that constituency that the sections on Observations and Suggested Agenda speak.

Observations

1. While the legal structures have remained relatively stable, there have been major additions to the powers and responsibilities of both local and state boards. The most dramatic of these have been Affirmative Action (centralized) and Collective Bargaining (decentralized). The Permissive Code has yet to make an equivalent impact on the process and structure of control.

2. Earlier ambiguities of performance responsibility have not been clarified, either in rule-writing or acceptance of same.

3. The dimensions of state-local control have become more complex as new control centers have emerged and grown. These include legislative staff, new state agencies, faculty and staff unions, taxpayer initiatives, the courts, and the Legislature. These centers request, and on some issues demand, participation in decisions, but reject responsibility for operational performance.

4. As responsibilities increase and resources decline, achievement of consensus becomes more difficult.

5. The voluntary compliance around specific issues noted in 1973 has become single-issue politics in the 1980's.

6. Annual shifting of legislative priorities and mandates effectively destroys efforts toward long-range planning and accountability.

7. The question "Who decides who decides?" needs to be reshaped to "What can be done together that cannot be done otherwise?"

Suggested Agenda

A continuing effort needs to be made to confirm the coordinating role of the Board of Governors and the governing role of the local boards. This legal structure and relationship was established and continues in Education Code Section 71023. In order to encourage voluntary compliance by local districts, a modification of the meaning and application of mandate and regulation needs to be observed by the Board of Governors and Chancellor's Office. To be more precise, it is suggested that:

1. The Governor be encouraged to fill promptly the existing seven vacancies on the Board of Governors with qualified appointments representing a wide range of constituents.

2. A review of mandates by the Chancellor's staff be supported.

3. This review of mandates and implementing policy decisions be assisted by a group selected external to the Chancellor's staff with particular attention to the implementation of the permissive code mandate.

4. A concept for allocating powers and functions be developed considering disclaimers by local and state boards; i.e., local boards could refrain from self-interest legislation, and the state could refrain from writing admission procedures for students. The Board of Governors, however, could require that local boards adopt policies and procedures on any subject of concern. In such a concept, the Board of Governors would establish the parameters for operational integrity of the local district. In such a structure it would be clear that the performance responsibilities of educating students, employing faculty and staff, and managing budgets rested with the local district.

Appendix A

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Appendix B

Interviews

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Appendix C

Additional Perspectives on the Issue of "Essentials of Local Control"

These questions were raised at the CCJCA Delegate Assembly in Los Angeles on April 19, 1980, at a panel discussion on "Essentials of Local Control."

1. What system is needed for both communication and decision-making in response to the emergence of new centers of control?

   We now have a highly complex matrix impacting local colleges including state agencies: Department of Finance, Legislative Analyst, legislative staff, California Postsecondary Education Commission, Fair Political Practices Commission, Equal Employment Opportunities Commission, California Occupational Safety and Health Administration, and the Board of Governors/Chancellor. All demand time, seek data/information/influence. They seek to influence the process and structure of control, yet none accept responsibility for operational performance.

2. Is voluntary compliance lost, thus requiring either less regulation or more auditors?

   This is a recent concern of the Internal Revenue Service. The 1970's "me" generation is still very evident in our organizations. Many examples of special interest/issue fragmentation exist but little interest in college-wide action or segmental concern is shown.

3. Are the regulatory agencies actually in control?

   The evidence is contradictory. Deregulation, sunset laws, and legislative oversight committees have appeared but there are also delays in approvals, denials by interpretation, and the incremental expansion of agency rules.

4. What would be the impact of doing nothing?

   Look at the analogy of what little we do to influence the federal legislative and regulatory processes. Is that analogy appropriate?

5. Can we possibly feel secure that at some time in the future we will finally have "settled" the question of local autonomy?

   Does the locus of decision-making really change with the times and the players? How can the Legislature which decides what local autonomy is (unless overturned in court, changed by voter initiative, vetoed by one of the governors, or not put into effect by bureaucratic oversight) actually allow any meaningful local autonomy? Is it logical to expect rational improvement in a political process?

6. What is the problem now and what should be done about it now?

   Is there some event or trend that is happening to someone now needing change? Can we possibly get statewide agreement about what this problem is? Where is the energy to do something about whatever the problem is? Who are the stakeholders, and what should they do? If we define stakeholders as students, or faculty, or administrators, or trustees, what changes about the process and structure of control?

Bibliography

1. Bender, Louis W. — The States, Communities, and Control of the Community College, American Association of Community and Junior Colleges, Washington, D.C., 1975

2. Bessire, Jack — "Priorities and Expectations for the '80s," Address to California Community and Junior College Association 50th Anniversary Conference, Sacramento, November 3, 1979

3. Brydon, Charles W. — "Problems and Perceptions of Control and Coordination," Report to the Board of Directors of the California Community and Junior College Association, Sacramento, September 12, 1973

4. Charles, S. F. (Editor) — Balancing State and Local Control, New Directions for Community Colleges, Jossey-Bass, Inc., San Francisco, Vol. VI, No. 3, 1978

5. Craig, William G. — "Roles and Directions from Sacramento," Address to Association of California Community College Administrators Conference, San Francisco, December 11, 1977

6. Cross, K. Patricia — "Old Practices and New Purposes," Community and Junior College Journal, pp. 4-8, September, 1979

7. DeHart, A. Robert — "A.D. 2000: Toward the Second Millenium," Address to Association of California Community College Administrators Conference, San Francisco, December 10, 1977

8. Gooder, Glenn G. — "California's Community Colleges . . . By the People, for the People," Address to California Community and Junior College Association 50th Anniversary Conference, Sacramento, November 4, 1979

9. Melone, R. J. — "A Statement to the Board of Governors of the California Community Colleges," Address, San Diego, December 8, 1976

10. Nussbaum, Thomas J. — "Education Code Mandates of the Board of Governors and Chancellor's Office: Comments on Compliance and Recommendations for Change," Sacramento, March, 1979

11. Nussbaum, Thomas J. — "Reference Manual: Integrating and Implementing Policy Decisions," Board of Governors of the California Community Colleges, Sacramento, January, 1980

12. Nussbaum, Thomas J. "Governance," Monograph Prepared for a Workshop of New Superintendents/Presidents, October 12, 1979

13. Phair, Thomas S. "Separation Study of Full-Time Certificated Staff and Faculty," Career Planning and Placement Center, University of California, Berkeley, January, 1980

14. Shapell, Nathan (Chairman) "Personnel Management in the State Service," A Study by the Commission on California State Government and Economy, Sacramento, August, 1979

15. Sindler, Allan P. "Preferential Treatment in the Struggle for Equality," The Center Magazine, Vol. XII, No. 6, November/December, 1979

16. Smith, William P., Jr. "Appropriate Functions of the Board of Governors of the California Community Colleges and of the Local Junior College Governing Boards," A Staff Report for the Coordinating Council for Higher Education, 68-22, December, 1968

17. Weiner, Stephen S. "Interview," FACCC Bulletin, Faculty Association of the California Community Colleges, December, 1979

18. Weiner, Stephen S. "The Last 50 Years and the Next 10," Address to California Community and Junior College Association 50th Anniversary Conference, Sacramento, November 3, 1979

19. Zoglin, Mary Lou "The College and the Community," Address to Foothill College and De Anza College Staff, March 13, 1974

20. Zoglin, Mary Lou "Local Control of Education in America, Past, Present, and Future," Xeroxed, No Date

21. Zoglin, Mary Lou "Understanding and Influencing the State Role in Postsecondary Education," Management Report, Association of California Community College Administrators, 77/7

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